

**REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of record are respectfully requested.

Upon entry of this amendment, claims 3-6 will be canceled without prejudice or disclaimer of the subject matter recited therein, and claims 8-9 will be added, whereby claims 1, 2 and 7-9 will be pending.

**Discussion of August 24, 2004 Telephone Interview**

Applicants express appreciation for the courtesies extended by the Examiner during an August 24, 2004 telephone interview with Applicants' representatives. During the interview, the terminology heterocyclic residue was discussed, and the Examiner indicated that amendment of the claims in the manner presented herein would remove the indefiniteness rejection.

**Response to Rejection Under 35 U.S.C. 112, second paragraph.**

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

In response, as noted above, the claims have been rewritten herein in the manner discussed during the telephone interview with the Examiner in accordance with the originally filed disclosure beginning in the middle of page 11 of Applicants' specification. Moreover, claims 3-6 have been canceled, and claims 8 and 9 have been added avoiding use language.

In view of the above, the indefiniteness rejection should be withdrawn.

**Response To Objection To Abstract**

The abstract has been objected to as being unrelated to the present claims.

In response, the Abstract has been replaced with a new Abstract directed to the presently claimed invention. Applicants therefore respectfully request that this objection be withdrawn.

**Response To Rejection Under 35 USC 101**

Claims 3-6 are rejected under 35 U.S.C. 101 because it is asserted that the claimed recitation of use results in an improper definition of a process.

In response, Applicants again note that claims 3-6 have been canceled and new claims 8-9 have been added which even more positively recite Applicants' invention. Accordingly, Applicants respectfully submit that this rejection be withdrawn.

**Response To Rejection Of Claims Under 35 USC 102(e)**

Claims 1, 3 and 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanaka, U.S. Patent No. 6,734,187, with the Examiner asserting that the patent has a 102(e) date of November 12, 1998.

In contrast to the assertion in the Office Action, Tanaka does not appear to have a 102(e) date of November 12, 1998. In this regard, it appears that Tanaka has a 102(e) date of August 4, 2000, which is its 371 date, because the International Application was filed November 12, 1998 which is prior to November 29, 2000, and is therefore under the older 102(e) provisions.

Accordingly, the 102(e) date of Tanaka is after the May 9, 2000 effective filing date of the present application and is therefore not available under 102(e). However, Applicants further

note that Tanaka published as WO 99/24432 on May 20, 1999. Therefore, the May 20, 1999 publication would appear to constitute 102(a) prior art to the present application.

Still further, Applicants note that the present application claims priority of Japanese Application No. 11-129499, filed May 11, 1999.

Applicants are submitting herewith a verified English translation of the Japanese priority application. The Examiner is requested, in conformance with MPEP 201.15, to review the submitted verified English translation to determine identity of invention between the U.S. and foreign application, and to review for sufficiency of disclosure under 35 U.S.C. 112, and to determine if there is a basis for the claims sought.

Applicants respectfully request that the rejection be withdrawn upon review of the submitted information including the accurate translation of the Japanese priority application.

### **Obviousness-Type Double Patenting Rejection**

Claims 5 and 6 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,734,187 to Tanaka.

In response, Applicants note that without expressing any agreement or acquiescence with the rejection, claims 5 and 6 have been canceled. In this regard, Applicants preserve the right to submit the canceled claims in one or more continuation applications, and to present arguments against the rejection and/or an executed Terminal Disclaimer.

Accordingly, this ground of rejection should be withdrawn.

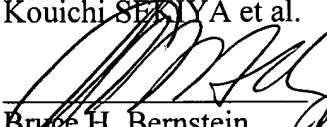
### **CONCLUSION**

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the objections and rejections of record, and allow each of the pending claims.

Applicants therefore respectfully request that an early indication of allowance of the application be indicated by the mailing of the Notices of Allowance and Allowability.

Should the Examiner have any questions regarding the application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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*By: 33,097*

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